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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,796	11/05/2001	Peng Cheng	042390P8122D	7807

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EXAMINER

FARAHANI, DANA

ART UNIT	PAPER NUMBER
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2814

DATE MAILED: 08/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/992,796

Applicant(s)

CHENG ET AL.

Examiner

Dana Farahani

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 14 and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-21 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-9 and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Muller et al., hereinafter Muller (U.S. Patent 4,674,319).

Regarding claim 1, Muller discloses in figure 2 a fixed charge plate (surface of the substrate) disposed in a substrate; a movable charge plate 24 disposed above the fixed charge plate; and a stiffener 50 affixed to a center portion of the movable charge plate.

Regarding claims 2 and 3, note that the distance between the fixed charge plate and the stiffener is constant, while a distance between the fixed charge plate and the movable charge plate varies (see column 4, lines 1-26).

Regarding claim 4, the area of the fixed charger plate is larger than the movable plate.

Regarding claims 5-8, the movable charge plate has a solid surface plate 24 and a undulating configured suspension 20.

Regarding claim 9, means for moving the movable plate (that is source 38) is also provided (see column 4, lines 1-26).

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Regarding claim 11, the means for suspending the movable charge plate comprises a flexible section of the movable charge plate.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Muller as applied to claim 9 above, and further in view of Miller (U.S. Patent 5,185,690).

Regarding claim 10, Muller discloses the limitation in the claim, as discussed above, except for a flexible dielectric is used for suspending the movable plate.

Miller discloses in figure 16, and column 8, lines 17-36, that flexible dielectric layers 146 are used in the capacitor 144. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use flexible dielectrics as the suspension of the structure of Muller, since there would be solid mechanical support for the moveable plate in addition to adding to moving capacity of the movable plate.

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Regarding claims 14 and 16, Muller discloses the limitation in the claim, as discussed above, except for a flexible dielectric is used in between the two plates.

Miller discloses in figure 16, and column 8, lines 17-36, that flexible dielectric layers 146 are used in the capacitor 144. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a flexible dielectric between the two plates of the capacitor in Muller structure in order to further change the capacity of the capacitor in the structure due to desired dielectric constants of the available dielectric layers.

Allowable Subject Matter

5. Claims 17-21 allowed.
6. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. The following is a statement of reasons for the indication of allowable subject matter:

The primary reason for indication of allowability of claims 12, 13, and 17-21 is the inclusion therein of the limitation that of the presence of an actuator plate.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dana Farahani whose telephone number is (703)305-1914. The examiner can normally be reached on M-F 9:00AM - 6:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wael M Fahmy can be reached on (703)308-4918. The fax phone numbers for the organization where this application or proceeding is assigned are (703)872-9318 for regular communications and (703)872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0956.

D. Farahani
August 3, 2003


LONG BHAM
PRIMARY EXAMINER